

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 AGR-20 EB-11 L-03 SAB-01 AID-20 IGA-02

HEW-08 SCI-06 CIAE-00 INR-10 NSAE-00 RSC-01 SSO-00

INRE-00 DRC-01 /104 W

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O 031919Z APR 74

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 277

C O N F I D E N T I A L SECTION 1 OF 2 PANAMA 1934

PASS US DEPARTMENT OF AGRICULTURE

EO 11652: GDS

TAGS: PFOR, EAGR, PN

SUBJ: FMD AMENDMENT

REF: STATE 058243 AND 060665

SUMMARY. AS RESULT OF INFORMAL DISCUSSION WITH FOREIGN MINISTRY LEGAL ADVISOR, EMBASSY BELIEVES THAT GOP NOT OPPOSED TO JOINT COMMISSION PER SE, AND THAT IT IS POSSIBLE TO AMEND 1972 COOPERATIVE AGREEMENT, PROVIDING FOR THIS TYPE ADMINISTRATIVE VEHICLE. HOWEVER, IT SEEMS THAT IT WILL BE NECESSARY TO BEGIN ANEW SINCE THE LACK OF CLARITY AND THE MANY AMBIGUITIES IN THE PANAMANIAN DRAFTS ORIGINATE, IN PART, FROM EFFORTS BY MIDA AND THE FONOFF TO "CLARIFY" THE ENGLISH-LANGUAGE DRAFT OF SEPTEMBER 1973. EMBASSY RECOMMENDS THAT, BEFORE AID/STATE/USDA NEGOTIATING TEAM COMES TO PANAMA, NEW DRAFT BE PREPARED, SPELLING OUT LINES OF AUTHORITY AS WELL AS THE NATURE AND FUNCTIONS OF THE "JOINT COMMISSION" SO THAT ACTOR AND ACTIONS ARE INTERNALLY CONSISTENT WITHIN DRAFT. END SUMMARY.

1. FOLLOWING RECEIPT OF STATE 058243 ON MARCH 23, DR. REA, USDA, ON EMBASSY INSTRUCTIONS, PROCEEDED TO ARRANGE
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FOR MEETING WITH MIDA AND FOREIGN MINISTRY OFFICIALS,

WHO WERE INFORMED OF THE PLANNED VISIT OF AN AID/STATE/USDA TEAM. SUBSEQUENT TO LANDBERG-DANIELS TELCON OF MARCH 25, CHARGE WAS INFORMED THAT MEETING HAS BEEN ARRANGED FOR 8:00 A.M.N THURSDAY, MARCH 28.

2. AFTER LANDBERG-DANIELS TELCON OF MARCH 26 AND RECEIPT OF STATE 060665 ON MARCH 27, INFORMING EMBASSY THAT VISIT OF TEAM WAS BEING DELAYED, CHARGE ASKED DR. REA TO RECONFIRM MEETING FOR MARCH 28 AND TO INFORM MIDA THAT WASHINGTON NEGOTIATING TEAM WOULD NOT BE PRESENT. MIDA SUBSEQUENTLY INFORMED DR. REA THAT FOREIGN MINISTRY OFFICIAL WOULD NOT BE AVAILABLE FOR MARCH 28 MEETING. AT THIS TURN OF EVENTS, EMBASSY ASKED THAT MEETING WITH MIDA BE POSTPONED "SINCE FONOFF OFFICIAL COULD NOT BE PRESENT." EMBASSY THEN REQUESTED APPOINTMENT WITH LEGAL ADVISOR OF FOREIGN MINISTRY. LIC. NARCISO GARAY INFORMED EMBOFF THAT HE WAS VERY BUSY BUT WHEN TOLD THAT MATTER WAS MOST URGENT, HE CONSENTED AND CAME TO CHANCERY FOR TALK, WHICH IN ITSELF WAS RARE TREAT.

3. CHARGE AND EMBASSY OFFICERS MET WITH LIC. GARAY FOR TWO HOURS ON MARCH 28 FOR WHAT HE CALLED A "PERSONAL, FRIENDLY AND STRICTLY INFORMAL CHAT" SINCE HE COULD NOT COMMIT FONOFF ON SUBJECT UNDER DISCUSSION. LEGAL ADVISOR DID SAY THAT NEITHER HE NOR FONOFF HAD ANY DESIRE "TO THROW MONKEY WRENCH INTO THE WORKS" BUT THAT THE OBJECTIVE WAS TO CLARIFY FUNCTIONS AND RESPONSIBILITIES AND TO BE CERTAIN THAT THE AMENDMENT TO THE COOPERATIVE AGREEMENT OF 1972 DID NOT STRAY INTO SENSITIVE AREAS (SUCH AS "JURISDICTION").

4. CHARGE EXPLAINED THAT WE WERE SEEKING LIC. GARAY'S VIEWS ONLY BUT THAT EMBASSY WISHED TO LEARN WHETHER THE FOREIGN MINISTRY HAD A PREFERENCE CONCERNING THE ADMINISTRATIVE MODEL FOR THE FMD PROGRAM, DRAWING SUBSTANTIALLY ON PARAS (3) AND (4) OF STATE 060665 FOR THIS PART OF DISCUSSION. LEGAL ADVISOR STATED THAT GOP WELCOMES USG PARTICIPATION IN THIS VITAL "HEALTH MEASURE" THROUGH JOINT COOPERATION BETWEEN MIDA AND USDA. HE STATED "A CONFIDENTIAL

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COMMITTEE, OR COMMISSION, CREATED BY MIDA AND USDA THROUGH AMENDMENT TO CARRY OUT THE COOPERATIVE PROGRAM IN THE 1972 AGREEMENT IS ACCEPTABLE TO THE FOREIGN MINISTRY." HE WENT ON TO SAY THE MEMBERS MAKING UP THE COMMITTEE (OR COMMISSION) WOULD NO DOUBT BE "THE DIRECTOR AND THE CO-DIRECTOR" AS PRESENTLY ENVISAGED IN THE SEVERAL DRAFTS, AND THAT THE COMMITTEE WOULD HAVE ITS FUNCTIONS SET FORTH IN THE AMENDMENT. LIC. GARAY EMPHASIZED THAT THE

COMMITTEE (OR COMMISSION) WOULD NOT HAVE POWERS OF THE SORT THAT WOULD IMPLY AUTHORITY SUPERIOR TO OTHER PANAMANAIAN GOVERNMENT ENTITIES. HE NOTED THAT MIDA, FOR EXAMPLE, IS UNABLE TO ORDER ABOUT OTHER GOVERNMENT SECTORS. WHAT IS CLEARLY NOT ACCEPTABLE IS THE CREATION OF A JOINT COMMISSION WITH AUTONOMOUS POWER TO MAKE POLICIES AND TAKE DECISIONS AFFECTING OTHER AGENCIES OF THE PANAMANIAN GOVERNMENT. "THAT WOULD BE A MONSTER," HE SAID, "WHOLLY UNACCEPTABLE AND INFRINGING ON PANAMANAIAN SOVEREIGNTY."

5. LIC. GARAY NOTED SOME INCONSISTENCIES AND AMBIGUITIES IN THE ENGLISH-LANGUAGE DRAFT, POINTING TO PARAGRAPH B(1) WHERE "THE DIRECTOR AND CO-DIRECTOR SHALL BE DIRECTLY AND JOINTLY RESPONSIBLE FOR THE TECHNICAL AND ADMINISTRATIVE ACTIVITIES OF THE COMMISSION." HE SAID IT WAS NOT POSSIBLE FROM THE DRAFT TO ASCERTAIN "TO WHOM" THEY MUST ACCOUNT FOR THEIR ACTIONS. HE MENTIONED THE CONFUSION IN AUTHORITY IN PARAGRAPH A(1) WHEREIN IT STATES "THE INSPECTION ZONE WILL BE POLICED BY THE NATIONAL GUARD AND INSPECTED BY DESIGNATED COMMISSION PERSONNEL." GARAY SAID THAT, SINCE MIDA HAS NO DIRECT AUTHORITY OVER THE NATIONAL GUARD, BY WHAT AUTHORITY COULD THE AMENDMENT ASSURE SUCH POLICING WOULD TAKE PLACE? IN OTHER WORDS, THE AMENDMENT MUST MAKE PRECISE HOW THESE VARIOUS COORDINATED EFFORTS ARE TO BE ACHIEVED. FINALLY, GARAY SAID THAT INSPECTION AND CONTROL ZONES CAN ONLY BE DESIGNATED BY LEGISLATIVE ACTION AND THE AUTHORITY TO DESIGNATE SUCH ZONES CANNOT BE DELEGATED TO MIDA OR ANY OTHER AGENCY.

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TO SECSTATE WASHDC IMMEDIATE 278

C O N F I D E N T I A L SECTION 2 OF 2 PANAMA 1934

6. COMMENT: DISCUSSION WITH FOREIGN MINISTRY LEGAL ADVISOR LED TO CONCLUSION FONOFF IS NOT OPPOSED IN PRINCIPLE TO "JOINT COMMISSION" CONCEPT FOR ADMINISTERING FMD PROGRAM. HOWEVER, IT IS ALSO CLEAR THAT THE STRUCTURE AND FUCTIONS OF THE PROPOSED COMMISSION HAVE NOT BEEN DEFINED WITH SUFFICIENT CLARITY IN THE FIRST ENGLISH-LANGUAGE DRAFT. SUBSEQUENT EFFORTS TO IMPROVE UPON DRAFT BY BOTH MIDA AND FONOFF APPARENTLY HAVE BEEN MADE NOT TO WEAKEN "JOINT COMMISSION" CONCEPT BUT RATHER TO MAKE MORE SPECIFIC WHO WOULD BE PERFORMING CERTAIN FUNCTIONS. THAT, IN ANY EVENT, IS OUR IMPRESSION NOW. OUR RECOMMENDATION IS THAT A NEW DRAFT OF SECTION B, ORGANIZATION OF THE COMMISSION, BE PREPARED. IT MIGHT BE PREFERABLE IF THIS SECTION STOOD AT THE HEAD OF THE AMENDMENT, SINCE THE INTRODUCTORY PARAGRAPH SPEAKS OF THE "ESTABLISHMENT OF A COMMISSION." WE BELIEVE THAT BEGINNING ANEW WITH THE CONCEPT IS PREFERABLE TO TRYING TO "NEGOTIATE OUT" LANGUAGE DIFFERENCES IN THE PRESENT SPANISH-LANGUAGE DRAFT, ESPECIALLY WITH REFERENCE TO THE "JOINT COMMIS-SION." EMBASSY WILL REQUEST NEW JOINT MEETING WITH MIDA AND FONOFF WHENEVER DEPARTMENT INDICATES. DANIELS

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